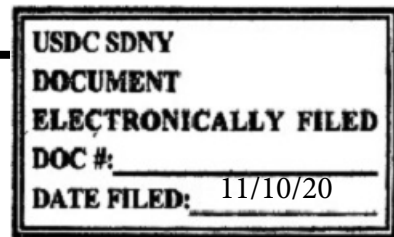


ELISA HYMAN, P.C.

November 9, 2020

BY ECF

The Honorable Judge Barbara C. Moses
United States District Court
Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, NY 10007



MEMO ENDORSED

Re: *N.S. et al., v. New York City Department of Education, et al.*,
18-cv-11786 (ALC) (BCM)

Dear Judge Moses:

I represent the Plaintiffs in the above-referenced action. I am writing jointly with Defendants' counsel to request an adjournment of the upcoming settlement conference scheduled for November 9, 2020.

We understand the Court's directive to move this case along expeditiously and, of course, the parties agree that we should do so. However, the parties need additional time to account for a new development. In brief, a decision involving a different underlying due process hearing concerning the Student, K.S., which had been pending on appeal with the New York State Review Office, has recently been issued. Due to COVID-19 mail forwarding issues, there was a delay in the parties' receipt of this decision. The decision ordered the DOE to fund hour-for-hour compensatory education to the student from June 1, 2016 through the end of the completion of the matter,. The appeal period in that action has not yet run. Given that K.S. already has two pending federal actions (this one and the M.G. Class Action), we need to discuss how we can proceed with settlement while simultaneously preserving the Plaintiffs' right to appeal and/or seek to enforcement in the future. Further, the parties need a few additional weeks to clarify how we frame a settlement that does not overlap with this new administrative decision both in terms of service hours and time frame within which to use the services.

We were hoping to be able to exchange proposals prior to the conference, as we believe it would be far more productive for the Court if we can engage in detailed negotiations prior to the conference, but we are not yet able to do so. In addition, due to the intervening situation, Plaintiffs have not yet provided Defendants with their time slips, and Defendants do not yet have approval from New York City Comptroller's office.

Accordingly, the parties respectfully request that the Court adjourn the settlement conference by at least 30 days, and reschedule the conference on a date convenient for the Court on or after December 16, 2020. The parties also respectfully request a corresponding extension of time to submit pre-conference letters, and that the Court reschedule the second conference currently scheduled for December 2, 2020, to a date convenient for the Court on or after January 2, 2021.

Thank you for Your Honor's consideration of this request.

Sincerely,

/s/ Elisa Hyman

Elisa Hyman
Counsel for the Plaintiffs

Application GRANTED. The settlement conference currently scheduled for November 16, 2020, at 2:00 p.m. is ADJOURNED to **December 17, 2020, at 2:00 p.m.** No later than **December 10, 2020**, the parties shall submit the pre-conference statements required by ¶¶ 3-4 of the Court's Order Scheduling Settlement Conference dated September 21, 2020 (Dkt. No. 34) via email to chambers. The other provisions in the September 21 Order remain in effect.

Moreover, the further telephonic status and scheduling conference currently scheduled for December 2, 2020, at 10:00 a.m. is ADJOURNED to **January 5, 2021, at 10:00 a.m.** At that time, the parties shall call (888) 557-8511 and enter the access code 7746387. One week prior to the conference, the parties shall submit a joint status letter proposing a discovery schedule. SO ORDERED.



Barbara Moses, U.S.M.J.
November 10, 2020